

# CALIFORNIA PRELIMINARY 20-DAY NOTICE

USE PROOF OF SERVICE AFFIDAVIT

CALIFORNIA PRELIMINARY 20-DAY NOTICE OR LACK OF GOLDENROD FILE COPY  
(PUBLIC AND PRIVATE WORK)

IN ACCORDANCE WITH SECTION 3097 AND 3098, CALIFORNIA CIVIL CODE

Customer gave information late....

CONSTRUCTION LENDER or  
Reputed Construction Lender, if any

None

OWNERS

OWNER  
or Reputed Owner  
(on private work)

or

PUBLIC AGENCY  
(on public work)

McDonnell Douglas Realty Co.  
4060 Lakewood Blvd, 6th Floor  
Long Beach, Ca. 90808

Construction loan no. 12305 (if known)

FOLD HERE

ORIGINAL CONTRACTOR or  
Reputed Contractor, if any

McDonnell Douglas Realty Co.  
4060 Lakewood Blvd, 6th Floor  
Long Beach, Ca 90808

SUBCONTRACTOR  
with whom claimant has contracted

Pour Concrete Cutting & Removal, Inc.  
3839 California Avenue  
Long Beach, CA 90807

YOU ARE HEREBY NOTIFIED THAT...

Pour Concrete Cutting & Removal, Inc.

3839 California Avenue

Long Beach, CA 90807

(name and address of person or firm-sender)

has furnished or will furnish labor, services, equipment or  
materials of the following general description:

Saw, Demo, & Cast in Place

(general description of the labor, services, equipment or materials furnished or to be furnished)

for the building, structure or other work of improvement located  
at:

1414 190th St & Normandie, Torrance

(address or description of job site sufficient for identification)

The name of the person or firm who contracted for the purchase  
of such labor, services, equipment or materials:

McDonnell Douglas

## NOTICE TO PROPERTY OWNER

If bills are not paid in full for the labor, services, equipment, or  
materials furnished or to be furnished, a mechanic's lien leading  
to the loss, through court foreclosure proceedings, of all or part  
of your property being so improved may be placed against the  
property even though you have paid your contractor in full. You  
may wish to protect yourself against this consequence by (1)  
requiring your contractor to furnish a signed release by the  
person or firm giving you this notice before making payment to  
your contractor or (2) any other method or device that is  
appropriate under the circumstances.

The person or firm giving this notice is required, pursuant to a collective  
bargaining agreement, to pay supplemental fringe benefits into an express  
trust fund (described in Civil Code §3111), said fund is identified as  
follows: (strike if inapplicable)

(name)

(address)

(name)

(address)

(name)

(address)

Mailed this date: 7/9/97

Rose Danner Pres.  
(signature) (title)

An estimate of the total price of the labor, services, equipment  
or materials furnished or to be furnished is:

\$ 10,000.00

For your assistance the following complete text of Section 3097, Section 3097.1 and Section 3098 of the California Civil Code are hereafter quoted. Should you have any doubt as to the usefulness of this information for your purposes you are urged to consult your own attorney.

**§3097. Preliminary 20-day notice (private work).** "Preliminary notice (private work)" means a written notice from a claimant that is given prior to the recording of a mechanic's lien, prior to the filing of a stop notice, and prior to asserting a claim against a payment bond, and is required to be given under the following circumstances:

(a) Except one under direct contract with the owner or one performing actual labor for wages, or an express trust fund described in Section 3111, every person who furnishes labor, service, equipment, or material for which a lien or payment bond otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, payment bond, and of a notice to withhold, cause to be given to the owner or reputed owner, to the original contractor, or reputed contractor, to any subcontractors with whom the claimant has contracted, and to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(b) Except the contractor, or one performing actual labor for wages, or an express trust fund described in Section 3111, all persons who have a direct contract with the owner and who furnish labor, service, equipment, or material for which a lien or payment bond otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, claim on a payment bond, and of a notice to withhold, cause to be given to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(c) The preliminary notice referred to in subdivisions (a) and (b) shall contain the following information:

- (1) A general description of the labor, service, equipment, or materials furnished, or to be furnished, and an estimate of the total price thereof.
- (2) The name and address of the person furnishing that labor, service, equipment, or materials.
- (3) The name of the person who contracted for purchase of that labor, service, equipment, or materials.
- (4) A description of the jobsite sufficient for identification.
- (5) The following statement in boldface type:

**NOTICE TO PROPERTY OWNER**

If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice before making payment to your contractor or (2) any other method or device that is appropriate under the circumstances.

(6) If the notice is given by a subcontractor who is required pursuant to a collective bargaining agreement to pay supplemental fringe benefits into an express trust fund described in Section 3111, the notice shall also contain the identity and address of the trust fund or funds.

If an invoice for materials contains the information required by this section, a copy of the invoice, transmitted in the manner prescribed by this section shall be sufficient notice.

A certificated architect, registered engineer, or licensed land surveyor who has furnished services for the design of the work of improvement and who gives a preliminary notice as provided in this section not later than 20 days after the work of improvement has commenced shall be deemed to have complied with subdivisions (a) and (b) with respect to architectural, engineering, or surveying services furnished, or to be furnished.

(d) The preliminary notice referred to in subdivisions (a) and (b) shall be given not later than 20 days after the claimant has first furnished labor, service, equipment, or materials to the jobsite. If labor, service, equipment, or materials have been furnished to a jobsite by a claimant who did not give a preliminary notice, that claimant shall not be precluded from giving a preliminary notice at any time thereafter. The claimant shall, however, be entitled to record a lien, file a stop notice, and assert a claim against a payment bond only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter.

(e) Any agreement made or entered into by an owner, whereby the owner agrees to waive the rights or privileges conferred upon the owner by this section shall be void and of no effect.

(f) The notice required under this section may be served as follows:

(1) If the person to be notified resides in this state, by delivering the notice personally, or by leaving it at his or her address of residence or place of business with some person in charge, or by first-class registered or certified mail, postage prepaid, addressed to the person to whom notice is to be given at his or her residence or place of business address or at the address shown by the building permit on file with the authority issuing a building permit for the work, or at any address recorded pursuant to subdivision (j).

(2) If the person to be notified does not reside in this state, by any method enumerated in paragraph (1) of this subdivision. If the person cannot be served by any of these methods, then notice may be given by first-class certified or registered mail, addressed to the construction lender or to the original contractor.

(3) When service is made by first-class certified or registered mail, service is complete at the time of the deposit of that registered or certified mail.

(g) A person required by this section to give notice to the owner, to an original contractor, to any subcontractor, and to a person to whom a notice to withhold may be given, need give only one notice to the owner, to the original contractor, and to any subcontractor, and to the person to whom a notice to withhold may be given with respect to all materials, service, labor, or equipment he or she furnishes for a work of improvement, that means the entire structure or scheme of improvements as a whole, unless the same is furnished under contracts with more than one subcontractor, in which event, the notice requirements shall be met with respect to materials, services, labor, or equipment furnished to each contractor.

If a notice contains a general description required by subdivision (a) or (b) of the materials, services, labor, or equipment furnished to the date of notice, it is not defective because, after that date, the person giving notice furnishes materials, services, labor, or equipment not within the scope of this general description.

(h) Where the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars (\$400), the failure of that contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section, constitutes grounds for disciplinary action by the Registrar of Contractors.

Where the notice is required to contain the information set forth in paragraph (6) of subdivision (c), a failure to give the notice, including that information, that results in the filing of a lien, claim on a payment bond, or the delivery of a stop notice by the express trust fund to which the obligation is owing constitutes grounds for disciplinary action by the Registrar of Contractors against the subcontractor if the amount due the trust fund is not paid.

(i) Every city, county, city and county, or other governmental authority issuing building permits shall, in its application form for a building permit, provide space and a designation for the applicant to enter the name, branch, designation, if any, and address of the construction lender and shall keep the information on file open for public inspection during the regular business hours of the authority.

If there is no known construction lender, that fact shall be noted in the designated space. Any failure to indicate the name and address of the construction lender on the application, however, shall not relieve any person from the obligation to give to the construction lender the notice required by this section.

(j) A mortgage, deed of trust, or other instrument securing a loan, any of the proceeds of which may be used for the purpose of constructing improvements on real property, shall bear the designation "Construction Trust Deed" prominently on its face and shall state all of the following: (1) the name and address of the lender, and the name and address of the owner of the real property described in the instrument, and (2) a legal description of the real property which secures the loan and, if known, the street address of the property. The failure to be so designated or to state any of the information required by this subdivision shall not affect the validity of the mortgage, deed of trust, or other instrument.

Failure to provide this information on this instrument when recorded shall not relieve persons required to give preliminary notice under this section from that duty.

The county recorder of the county in which the instrument is recorded shall indicate in the general

index of the official records the county that the instrument secures a construction loan.

(k) Every contractor and subcontractor who is required pursuant to a collective bargaining agreement to pay supplemental fringe benefits into an express trust fund described in Section 3111, and who has failed to do so shall cause to be given to the trust fund and to the construction lender, if any, or to the reputed construction lender, if any, not later than the date the payment due to the trust fund became delinquent, a written notice containing all of the following:

- (1) The name of the owner and the contractor.
- (2) A description of the jobsite sufficient for identification.
- (3) The identity and address of the express trust fund.
- (4) The total number of straight time and overtime hours on each job, payment for which the contractor or subcontractor is delinquent to the express trust.
- (5) The amount then past due and owing.

Failure to give this notice shall constitute grounds for disciplinary action by the Registrar of Contractors.

(l) Every written contract entered into between a property owner and an original contractor shall provide space for the owner to enter his or her name and address of residence; and place of business if any. The original contractor shall make available the name and address of residence of the owner to any person seeking to serve the notice specified in subdivision (c).

(m) Every written contract entered into between a property owner and an original contractor, except home improvement contracts and swimming pool contracts subject to Article 10 (commencing with Section 7150) of Chapter 9 of Division 3 of the Business and Professions Code, shall provide space for the owner to enter the name and address of the construction lender or lenders. The original contractor shall make available the name and address of the construction lender or lenders to any person seeking to serve the notice specified in subdivision (c). Every contract entered into between an original contractor and subcontractor, and between subcontractors, shall provide a space for the name and address of the owner, original contractor, and any construction lender.

(n) Where one or more construction loans are obtained after commencement of construction, the property owner shall provide the name and address of the construction lender or lenders to each person who has given the property owner the notice specified in subdivision (c).

(o) (1) Each person who has served a preliminary 20-day notice pursuant to subdivision (f) may file the preliminary 20-day notice with the county recorder in the county in which any portion of the property is located. A preliminary 20-day notice filed pursuant to this section shall contain all the following:

- (A) The name and address of the person furnishing the labor, service, equipment, or materials.
- (B) The name of the person who contracted for purchase of the labor, service, equipment, or materials.
- (C) The common street address of the jobsite.

(2) Upon the acceptance for recording of a Notice of Completion or Notice of Cessation the County Recorder shall mail to those persons who have filed a preliminary 20-day notice, notification that a Notice of Completion or Notice of Cessation has been recorded on the property and shall affix the date that the Notice of Completion or Notice of Cessation was recorded with the county recorder.

(3) The failure of the county recorder to mail the notification to the person who filed a preliminary 20-day notice, or the failure of those persons to receive the notification or to receive complete notification, shall not affect the period within which a claim of lien is required to be recorded. However, the county recorder shall make a good faith effort to mail notification to those persons who have filed the preliminary 20-day notice under this section and to do so within five days after the recording of a notice of completion or notice of cessation.

(4) This new function of the county recorder shall not become operative until July 1, 1988. The county recorder may cause to be destroyed all documents filed pursuant to this section, two years after the date of filing.

(5) The preliminary 20-day notice which a person may file pursuant to this subdivision is for the limited purpose of facilitating the mailing of notice by the county recorder of recorded notices of completion and notices of cessation. The notice which is filed is not a recordable document and shall not be entered into those official records of the county which by law impart constructive notice. Notwithstanding any other provision of law, the index maintained by the recorder of filed preliminary 20-day notices shall be separate and distinct from those indexes maintained by the county recorder of those official records of the county which by law impart constructive notice. The filing of a preliminary 20-day notice with the county recorder does not give rise to any actual or constructive notice with respect to any party of the existence or contents of a filed preliminary 20-day notice nor to any duty of inquiry on the part of any party as to the existence or contents of that notice.

**§3097.1 Proof of Service of Notice.** Proof that the preliminary 20-day notice required by Section 3097 was served in accordance with subdivision (f) of Section 3097 shall be made as follows:

(a) If served by mail, by the proof of service affidavit described in subdivision (c) of this section accompanied either by the return receipt of certified or registered mail, or by a photocopy of the record of delivery and receipt maintained by the post office, showing the date of delivery and to whom delivered, or, in the event of nondelivery, by the returned envelope itself.

(b) If served by personally delivering the notice to the person to be notified, or by leaving it at his address or place of business with some person in charge, by the proof of service affidavit described in subdivision (c).

(c) A "proof of service affidavit" is an affidavit of the person making the service, showing the time, place and manner of service and facts showing that such service was made in accordance with Section 3097. Such affidavit shall show the name and address of the person upon whom a copy of the preliminary 20-day notice was served, and, if appropriate, the title or capacity in which he was served.

**§3098. Preliminary 20-Day Notice (Public Work).** "Preliminary 20-day notice (public work)" means a written notice from a claimant that was given prior to the assertion of a claim against a payment bond, or the filing of a stop notice on public work, and is required to be given under the following circumstances:

(a) In any case in which the law of this state affords a right to a person furnishing labor or materials for a public work who has not been paid therefor to assert a claim against a payment bond, or to file a stop notice with the public agency concerned, and thereby cause the withholding of payment from the contractor for the public work, any such person having no direct contractual relationship with the contractor, other than a person who performed actual labor for wages or an express trust fund described in Section 3111, may file the preliminary notice, but no payment shall be withheld from the contractor pursuant to that notice unless the person has caused written notice to be given to the contractor, the subcontractors with whom the claimant has contracted, and the public agency concerned, not later than 20 days after the claimant has first furnished labor, services, equipment, or materials to the jobsite, stating with substantial accuracy a general description of labor, service, equipment, or materials furnished or to be furnished, and the name of the party to whom the same was furnished. This notice shall be served by mailing the same by first-class mail, registered mail, or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business, or his or her residence, or by personal service. In case of any public works constructed by the Department of Public Works or the Department of General Services of the state, such notice shall be served by mailing in the same manner as above, addressed to the office of the disbursing officer of the department constructing the work, or by personal service upon the officer. When service is by registered or certified mail, service is complete at the time of the deposit of the registered or certified mail.

(b) Where the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars (\$400), the failure of that contractor, licensed under Chapter 9, (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section, constitutes grounds for disciplinary action by the Registrar of Contractors.

(c) The notice requirements of this section shall not apply to an express trust fund described in Section 3111.

(d) If labor, service, equipment, or materials have been furnished to a jobsite by a claimant who did not give a preliminary notice pursuant to subdivision (a), that claimant shall not be precluded from giving a preliminary notice at any time thereafter. The claimant shall, however, be entitled to assert a claim against a payment bond and file a stop notice only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter.